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ENVIRONMENT DEPARTMENT

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 **ENTERED**



RON CURRY
SECRETARY

DERRITH WATCHMAN-MOORE
DEPUTY SECRETARY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 28, 2003

Dr. Inés Triay, Manager
Carlsbad Field Office
Department of Energy
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Dr. Steven Warren, President
Washington TRU Solutions, LLC
P.O. Box 2078
Carlsbad, New Mexico 88221-5608

**RE: RESCHEDULING OF INEEL ANALYTICAL LABORATORY OPERATIONS AUDIT A-03-15
WIPP HAZARDOUS WASTE FACILITY PERMIT
EPA I.D. NUMBER NM4890139088**

Dear Drs. Triay and Warren:

On March 24, 2003, NMED received the "Transmittal of the Audit Plan and Notification of Assigned Auditors for the Idaho National Engineering and Environmental Laboratory [INEEL], Analytical Laboratory Operations, Certification Audit" in a letter dated March 20, 2003. The transmittal letter and attached audit plan stated that the audit (identified as Audit A-03-15) would be conducted at INEEL on April 21-25, 2003. On April 1, 2003, my staff received an informal e-mail from Earl Bradford of CTAC stating that Audit A-03-15 had been rescheduled to the week of May 19, 2003. On April 2, 2003, Ava Holland responded to an e-mail inquiry from my staff seeking official notification of the delay in this audit, stating "When I can get a definitive answer on whether the audit is delayed or when the site will be ready, I'll make sure you get an official notification." On April 14, 2003, NMED finally received official notification that Audit A-03-15 had been rescheduled to May 19-23, 2003.

Permit Condition II.C.2.b (Observation of audit) states in part, "The Permittees shall provide the Secretary with the current audit schedule on a monthly basis and notify the Secretary no later than thirty (30) calendar days prior to each audit." NMED has been tolerant of previous audit notifications that arrive less than thirty calendar days prior to the beginning of the audit (e.g., the March 24, 2003 notification). NMED has also had to handle numerous uncertainties associated with other audits that were scheduled several times "at the last minute" before a final date was established (e.g., ANL-E/C Audit A-02-03).

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NMED staff has informally discussed with CTAC audit management the importance of establishing audit dates based upon a generator site's readiness to demonstrate compliance with applicable requirements of the WIPP waste analysis plan. Premature formal notification of an audit when a generator site is unprepared serves no useful purpose, especially if it is done to compel a site to develop a waste characterization program by an arbitrary or unrealistic deadline. The Permit accommodates the need for flexibility by establishing the audit schedule as a long-range planning tool subject to monthly (or more frequent) updates. However, NMED should only receive official notification of an audit when the Permittees are confident the audit will occur as scheduled.

NMED takes this opportunity to underscore the importance of sufficient advance notice in order to identify appropriate staff and contractor support for each audit, secure approval for necessary travel expenses, and make timely travel arrangements. NMED requests that the Permittees establish a procedure for formally notifying regulators and observers whenever an officially noticed audit has been postponed or canceled. Informal notification to NMED (e.g., via e-mail or the telephone) is inadequate in part because the administrative record remains incomplete. We further request the Permittees not wait for the certainty of a rescheduled audit date to provide formal notification. NMED still expects the Permittees to transmit the revised audit plan to NMED once the final audit date is established, as specified in Permit Condition II.C.2.b cited above.

If you have any questions regarding this matter, please contact me at (505) 428-2512.

Sincerely,



James P. Bearzi
Chief
Hazardous Waste Bureau

JPB:soz

Attachment 1: E-mail from Earl Bradford to Steve Zappe, April 1, 2003

Attachment 2: E-mail from Ava Holland to Steve Zappe, April 2, 2003

cc: Steve Zappe, NMED HWB
Chuck Noble, NMED OGC
Laurie King, EPA Region 6
Betsy Forinash, EPA ORIA
Matthew Silva, EEG
Connie Walker, Trinity Engineering
File: Red WIPP '03

Subject: RE: Schedule change for INEEL Audit A-03-15

From: "Holland, Ava - DOE" <Ava.Holland@wipp.ws>

Date: Wed, 2 Apr 2003 08:54:32 -0700

To: "Steve_Zappe@nmenv.state.nm.us" <Steve_Zappe@nmenv.state.nm.us>

CC: "Ledford, Wayne - CTAC" <Wayne.Ledford@wipp.ws>, "Bradford, Earl - CTAC" <Earl.Bradford@wipp.ws>

Steve

At this moment, the schedule change is not yet official. When I can get a definitive answer on whether the audit is delayed or when the site will be ready, I'll make sure you get an official notification.

Ava

-----Original Message-----

From: Steve Zappe [mailto:Steve_Zappe@nmenv.state.nm.us]

Sent: Tuesday, April 01, 2003 5:07 PM

To: Ava Holland

Cc: James Bearzi

Subject: Schedule change for INEEL Audit A-03-15

Ava -

We heard informally through an e-mail from Earl Bradford of CTAC that the INEEL Labs and Sampling Process Audit (A-03-15) has been rescheduled from April 21-26 to May 19-23, 2003. If this is the case, could you please send NMED official notification of the delay of that audit? We don't need to know the future proposed date (that can appear on the CBFO Assessment Schedule that is updated weekly), but we need something in the administrative record saying this audit has been postponed. I really think you need to have a procedure for notifying the regulators whenever this happens. Without that notification of the delay in the record, we might inadvertently make airline/hotel reservations based solely upon the official notification we received from Inés dated March 20, 2003. Thanks for your cooperation in this matter!

Steve

Attachment 2